

ORIGINAL



MEMORANDUM

36

TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

Arizona Corporation Commission

DOCKETED

JUN 10 2005

DOCKETED BY	
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DATE: June 10, 2005

RE: STAFF REPORT FOR CAVE CREEK WATER COMPANY APPLICATION
FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR WATER SERVICES. DOCKET NO. W-01452A-05-0082

Attached is the Staff Report for the above referenced application. Staff recommends approval of the application subject to several conditions.

EGJ:LAI:red

Originator: Linda Jaress

Attachment: Original and Thirteen Copies

RECEIVED

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AZ CORP COMMISSION
DOCUMENT CONTROL

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Docket No. W-01452A-05-0082

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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

CAVE CREEK WATER COMPANY

DOCKET NO. W-01452A-05-0082

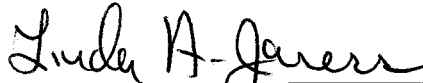
APPLICATION FOR AN EXTENSION OF ITS CC&N
TO PROVIDE WATER SERVICE IN MARICOPA COUNTY, ARIZONA

June 2005

STAFF ACKNOWLEDGEMENT

The Staff Report for Cave Creek Water Company (Docket No. W-01452A-05-0082) was the responsibility of the Staff members listed below. Linda Jaress was responsible for the review and analyses of the Company's application. Dorothy Hains was responsible for the engineering and technical analysis.

Contributing Staff:



Linda A. Jaress
Executive Consultant III



Dorothy Hains
Utilities Engineer

**EXECUTIVE SUMMARY
CAVE CREEK WATER COMPANY
DOCKET NO. W-01452A-05-0082**

Cave Creek Water Company ("Cave Creek" of "Company") is seeking to extend its Certificate of Convenience and Necessity ("CC&N") to include an area of approximately 30 acres to serve a new development that will be divided into nine residential lots. Cave Creek currently provides water service to 2,333 customers within the Town of Cave Creek located in northeast Maricopa County. Cave Creek is operating under rates that were approved in 1986 and applies a Central Arizona Project Water Development Tariff which was instituted in 1985. A portion of Cave Creek's water treatment plant is owned by Pacer Equities, its affiliate. Both companies were acquired by Global Water Resources, L.L.C. on March 3, 2005.

The Town of Cave Creek has intervened in this case to protect its interests. The Town intends to acquire Cave Creek Water Company through a condemnation action.

The Company has adequate production and storage to serve approximately 500 additional customers. The extension facilities will be comprised of 910 feet of six-inch water line costing between \$20,000 and \$50,000. Cave Creek will finance the required facilities primarily with Advances in Aid of Construction from the developer. Construction of the extension is expected within six months of approval by the Town of the property's final plat.

Staff concludes that under certain conditions the requested extension of the Cave Creek's CC&N is in the public interest and should be approved. Staff recommends approval under the following conditions:

1. Cave Creek must charge its existing rates and charges in the proposed extension area.
2. Cave Creek must file a rate case by May 31, 2006, using a 2005 test year.
3. Cave Creek must file with the Commission's Docket Control as a compliance item within this docket by December 31, 2005, a copy of the ADEQ "Approval to Construct" for the Company's final arsenic treatment plan.
4. Cave Creek must file a copy of the developer's Certificate of Adequate Water Supply, stating that there is adequate water supply, where applicable or when required by statute, with the Commission's Docket Control as a compliance item in this docket within one year of the effective date of the final decision issued regarding this application.
5. Cave Creek must forward its main extension agreement with Windy City to Staff for review consistent with A.A.C. R14-2-406 within one year of the effective date of the final decision issued regarding this application.
6. Cave Creek must file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the final Decision and Order in this matter.

Staff further recommends that the decision become effective on the first day of the month following the Company's filing of Maricopa County Environmental Services Department ("MCDES") documents that demonstrate full compliance with the Commission's Docket Control as a compliance item in this docket.

Staff further recommends that the Commission's Decision granting this extension of Cave Creek's CC&N be considered null and void without further order from the Commission should Cave Creek fail to meet conditions 2, 3, 4, and 5 within the time specified.

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Introduction

On February 9, 2005, Cave Creek Water Company ("Cave Creek" or "Company"), a certificated Arizona public service company, filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to extend its existing Certificate of Convenience and Necessity, ("CC&N") to include additional property in Maricopa County, Arizona.

Cave Creek provides water service within the Town of Cave Creek located in northeast Maricopa County. The extension includes an area of approximately 30 acres located adjacent to the southern portion of the current CC&N. The plotted area using the legal description provided with the application is attached as Exhibit 1.

Intervention

On April 26, 2005, the Town of Cave Creek ("the Town") filed an application to intervene in this case, citing the expectation that the Town will "acquire and take possession of" the Company through a condemnation case filed on April 6, 2005, in Maricopa County Superior Court. The Administrative Law Judge issued a Procedural Order on May 9, 2005, granting the Town intervention.

Background

Cave Creek received its initial CC&N in Decision No. 28958, dated May 24, 1955. The CC&N has been subsequently amended numerous times to include additional territory. According to Cave Creek's 2004 Annual Report to the Commission, the Company serves approximately 2,333 customers. The Company also reported revenues of \$1.8 million and net income of \$19,848. Cave Creek's current rates and charges were established in Decision No. 55269, dated October 30, 1986.

Approximately twenty years ago, in Decision No. 54396, dated March 4, 1985, the Commission approved Cave Creek's Tariff No. 8, the Central Arizona Project Water Development Tariff, which requires owners of new subdivisions seeking water service from Cave Creek to pay their pro rata share of certain Central Arizona Project ("CAP") costs. The tariff is less than straight forward, was the focus of a law suit (since settled) and was based upon cost estimates and circumstances in existence in 1985. Since then, the Commission has modified its policies related to CAP and has adopted more appropriate CAP tariffs that should be considered for Cave Creek.

Cave Creek indicated that it does not own all the property being used for public service. A portion of the water treatment plant, including a building, filter, backwash ponds and drying beds are owned by Pacer Equities ("Pacer"), an affiliate of Cave Creek.

On March 3, 2005, both Cave Creek and Pacer were acquired by Global Water Resources, LLC, ("Global") in a stock purchase. The Commission has previously reviewed Global during the acquisition of Palo Verde Utilities and Santa Cruz Water Company. Global has been described as founded to aggregate and consolidate small and medium size water and wastewater utilities in the Southwestern United States. Global has expressed its intention to operate Pacer and Cave Creek as one entity.

Staff believes that due to the vintage of the Cave Creek CAP tariff and its general rates and charges and because costs may have changed significantly under new ownership, the Commission should order Cave Creek to file a general rate case on or before May 31, 2006, using a 2005 test year. A rate case will provide Staff and the Commission the opportunity to review in detail the CAP tariff, the revenues and expenditures from the CAP tariff, the financial impact of new ownership, transactions with Pacer and the general level of rates and charges.

The Extension Request

Cave Creek is seeking to extend its CC&N to include an area of approximately 30 acres located adjacent to the southern portion of the current CC&N. Cave Creek provides water service within the Town of Cave Creek located in northeast Maricopa County.

The application requested the extension to serve 30 acres owned by BDG60 L.L.C. which planned a housing development consisting of nine residential lots. In the application, Cave Creek supplied a letter from a member of BDG60 L.L.C. requesting that his land be included in Cave Creek's CC&N area. On April 18, 2005, a letter was filed with Docket Control indicating that the ownership of the property which is the subject of this extension was sold by BDG60 L.L.C. to Windy City Group, L.L.C. ("Windy City") and that the new owner requested that Cave Creek continue to pursue approval of the extension. The letter relates that Windy City will provide Cave Creek easements, pay all costs of the water-related facilities pursuant to a line extension agreement and pay all applicable fees and charges approved by the ACC.

Water Production Capacity

The Cave Creek water system consists of a surface water treatment plant that can treat 2 million gallons per day of CAP water, 780 million gallons of storage capacity, wells capable of producing 860 gallons per minute and a distribution system serving approximately 2,300 customers. The CAP water is the Company's main source supply while the wells are used as backup supply. The Company has adequate production and storage to serve approximately 500 additional customers. A further description of the water system and the extension is contained in the Engineering Report attached as Exhibit 2.

Finance of Facilities

Cave Creek will finance the required facilities primarily with Advances in Aid of Construction from Windy City. Advances in aid of construction are often in the form of main extension agreements. Main extension agreements generally require the developer to be responsible for the design, construction and installation of all facilities to provide adequate service to the development. The developer is required to pay all costs of constructing the required facilities necessary to serve the development. Upon acceptance of the facilities by the utility the developer may convey the water facilities by way of a warranty deed or bill of sale. The utility will often refund ten (10) percent of the annual water revenue associated with development for a period of ten (10) years.

A main extension agreement has not been finalized between the parties, once the parties have finalized an Agreement, Staff recommends the agreement be forwarded to Staff for review consistent with Arizona Administrative Code R14-2-406.

The Extension Facilities

The Company intends to extend service from its existing water main arterial under Carefree Drive within the Town. Windy City will extend the existing 6-inch water line on Carefree Drive for 910 feet to its property to provide service to its 9 lots. The cost of the extension is expected to be between \$20,000 and \$50,000. Construction of the extension is expected within six months of approval by the Town of the property's final plat.

Maricopa County Environmental Services Department ("MCDES") Compliance

MCDES regulates the water system under the Public Water System I.D. No. 07-016. According to an MCDES inspection report dated January 28, 2005, Cave Creek's water treatment plant is not in compliance with drinking water requirements because several upgrades have been made to the plant without MCDES' approval. However, MCDES has also determined that Cave Creek is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.

Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10 µg/l. The date for compliance with the new MCL is January 23rd, 2006.

The most recent lab analysis provided by the Company indicates that six out of Cave Creek's eight wells exceed the new arsenic standard. The Company is proposing to use blending to reduce the arsenic concentration in its well water to meet the new arsenic standard. In its January 28, 2005 Annual O&M Inspection Report, MCDES reported that the Company's full-scale well water arsenic removal pilot testing was in progress. Staff recommends that the

Company file with the Commission's Docket Control as a compliance item under this docket number a copy of the Arizona Department of Environmental Quality ("ADEQ") Approval to Construct for the Company's final arsenic treatment plan by December 31, 2005.

Curtailment Plan Tariff

A curtailment tariff is an effective tool for managing resources during periods of water shortages whether from equipment breakdowns or events of nature. The Company does not have a curtailment tariff. Staff recommends that the Company file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the final Decision and Order in this matter. The tariff shall be filed with Docket Control as a compliance item under this docket number for Staff's review and certification.

Staff further recommends that the curtailment tariff shall generally conform to the sample tariff found on the Commission's web site at www.cc.state.az.us. Staff recognizes that the Company may need to make minor modifications according to their specific management, operational, and design requirements as necessary and appropriate.

ACC Compliance

The Utilities Division Compliance Section reported no outstanding compliance issues for the Company.

Proposed Rates

Cave Creek will charge its current, approved rates to the new customers in the extension area.

County Franchise

Cave Creek has been authorized the necessary Maricopa County franchise for the extension area.

Conclusions and Recommendations

Staff concludes that under certain conditions the requested extension of the Cave Creek's CC&N is in the public interest and should be approved. Staff recommends approval under the following conditions:

1. Cave Creek must charge its existing rates and charges in the proposed extension area.
2. Cave Creek must file a rate case by May 31, 2006, using a 2005 test year.

3. Cave Creek must file with the Commission's Docket Control as a compliance item within this docket by December 31, 2005, a copy of the ADEQ Approval to Construct for the Company's final arsenic treatment plan.
4. Cave Creek must file a copy of the developer's Certificate of Assured Water Supply, stating that there is adequate water supply, where applicable or when required by statute, with the Commission's Docket Control as a compliance item in this docket within one year of the effective date of the final decision issued regarding this application.
5. Cave Creek must forward its main extension agreement with Windy City to Staff for review consistent with A.A.C. R14-2-406 within one year of the effective date of the final decision issued regarding this application.
6. Cave Creek must docket a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the final Decision and Order in this matter. The tariff shall generally conform to the sample tariff found on the Commission's web site at www.cc.state.az.us. Staff recognizes that the Company may need to make minor modifications according to their specific management, operational, and design requirements as necessary and appropriate.

Staff further recommends that the decision become effective on the first day of the month following the Company's filing of MCDES documents that demonstrate full compliance with the Commission's Docket Control as a compliance item in this docket.

Staff further recommends that the Commission's Decision granting this extension of Cave Creek's CC&N be considered null and void without further order from the Commission should Cave Creek fail to meet conditions 2, 3, 4, and 5 within the time specified.

MEMORANDUM

TO: Jim Fisher
Executive Consultant II
Utilities Division

FROM: Barb Wells *bw*
Information Technology Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: February 16, 2005

RE: **CAVE CREEK WATER COMPANY (DOCKET NO. W-01452A-05-0082)**

The area requested by Cave Creek for an extension has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

Also attached is a copy of the map for your files.

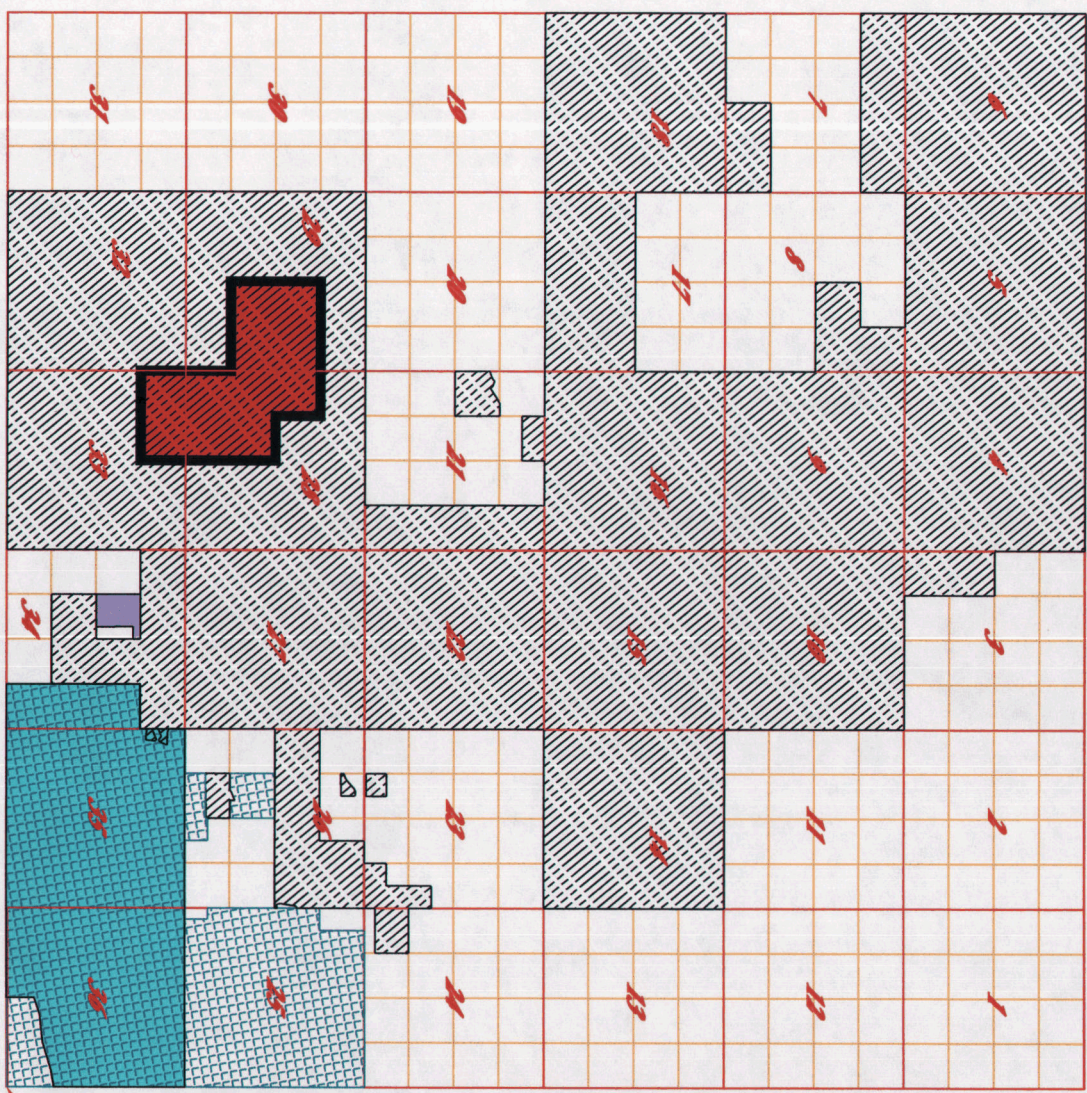
:bsw

Attachments






cc: Docket Control
Mr. Jay George
Ms. Deb Person (Hand Carried)
File

COUNTY: Maricopa

RANGE 4 East



TOWNSHIP 6 North

-  W-1452 (4)
Cave Creek Water Company
-  Sewer
C-0016 (1)
Town of Cave Creek (Sewer Only)
-  Sewer
SW-2361 (2)
Black Mountain Sewer Corporation
-  C-0023 (3)
Town of Carefree (Nonjurisdictional)
- 
Cave Creek Water Company
Docket No. W-1452-05-082
Application for Extension

City of Scottsdale
(South 40 Feet of Section 36)

EXHIBIT A

LEGAL DESCRIPTION

The Southeast quarter of the Northwest quarter of Section 34, Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona EXCEPTING therefrom the following described parcel:

BEGINNING at the 2 inch diameter brass cap that is stamped center of Section 34, Township 6 North, Range 4 East, L.S. 1681, said point being also the Southeast corner of the Southeast quarter of the Northwest quarter of Section 34;

thence South 89 degrees 07 minutes 56 seconds West, 362.49 feet along the south line of said Southeast quarter of the Northwest quarter to an iron pipe tagged L.S. 1681 set for the Southwest corner of the herein described parcel of land;

thence North 00 degrees 42 minutes 47 seconds West, 1107.69 feet parallel with the East line of said Southwest quarter of the Northwest quarter to an iron pipe tagged L.S. 1681 set for the Northwest corner of the herein described parcel of land;

thence North 89 degrees 07 minutes 56 seconds East, 362.49 feet parallel with the South line of said Southeast quarter of the Northeast quarter to an iron pipe tagged L.S. 1681 set for the Northeast corner of the herein described parcel of land at a point that is on the East line of said Southeast quarter of the Northwest quarter and from which point the Northeast corner of said Southeast quarter of the Northeast corner of said Southeast quarter of the Northwest quarter bears North 00 degrees 42 minutes 47 seconds West, 205.77 feet;

thence from said Northeast quarter of the herein described parcel of land South 00 degrees 42 minutes 47 seconds East, 1107.69 feet along the east line of said Southeast corner of the Northwest quarter to said 2 inch diameter brass cap that is Southeast corner of the herein described parcel of land and the POINT OF BEGINNING.

EXCEPT from all the above, all the coal and other minerals as reserved in Patent from the United States of America.

MEMORANDUM

DATE March 23, 2005

TO: James E. Fisher

FROM: Dorothy Hains *DH*

RE: **Cave Creek Water Co.
Application for an Extension of its Certificated Convenience &
Necessity to Provide Water Service
Docket No. W-01452A-05-0082**

I. Introduction

Cave Creek Water Co. ("Cave Creek" or "Company") has applied to extend its Certificated Convenience & Necessity ("CC&N") to provide water service in an area south of the Town of Cave Creek, north of the City of Phoenix, in Maricopa County. The requested service area that is a nine lot subdivision known as the Carefree Views Subdivision is adjacent to the Company's existing service area and is located in the northwest quarter of Section 34 in Township 6 North, Range 4 East. The requested service area which is 900 feet away from an existing Company main along Carefree Drive, would add less than one quarter of a square mile to the Company's approximately nineteen square miles of existing service area.

II. System Analysis

Cave Creek Water Co. consists of a surface water treatment plant that can treat 2 million gallons per day ("MGD") of Central Arizona Project ("CAP") water, 780 million gallons of storage capacity, wells capable of producing 860 gallons per minute ("GPM") and a distribution system serving approximately 2,300 customers. The CAP water is the Company's main source supply; the wells are used as backup supply. The Company has adequate production and storage to serve approximately 500 additional customers. The application states only nine new connections are expected to be served within the requested area.

III. Maricopa County Environmental Services Department ("MCDES") Compliance

MCDES regulates the Cave Creek water systems under the Public Water System ID No. 07-016. MCDES reported that the system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. However, MCDES also reported that the system has minor monitoring and reporting deficiencies.¹ Staff recommends that any decision approving the subject extension not become effective until Cave Creek demonstrates it has addressed any monitoring and reporting deficiencies and is in full compliance with MCDES requirements. Staff further recommends that this decision become effective on the first day of the month following the Company's filing with the Commission's Docket Control as a compliance item under the same docket number MCDES documents that demonstrate full compliance.

IV. Arizona Department of Water Resources ("ADWR") Compliance

The Company is located in Phoenix Active Management Area, as designated by ADWR. Cave Creek is in compliance with ADWR's reporting and conservation rules (GPCD requirements).

VI. Arizona Corporation Commission ("ACC")

A check with the Utilities Division Compliance Unit showed no outstanding compliance issues.

VII. Others Issues

A. Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") or parts per billion ("ppb") to 10 µg/l. The date for compliance with the new MCL is January 23, 2006. The latest lab test results show six out of eight wells exceed the new arsenic standard. The results are in the range of 12 µg/l and 92 µg/l. The Company is proposing to use blending to reduce the arsenic concentration in its well water so it meets the new arsenic standard. In its January 28, 2005 Annual O&M Inspection Report, MCDES reported that the Company's full-scale well water arsenic removal pilot testing was in progress. Staff recommends that the Company file with the Commission's Docket Control as a

¹ In January 28, 2005 Annual O&M Inspection Report, MCDES states that Cave Creek Water Co. Water Treatment Plant is not in compliance with drinking water requirements because several upgrades have been made to plant without MCDES approval.

compliance item under the same docket number a copy of the ADEQ "Approval to Construct" for the Company's final arsenic treatment plan by December 31, 2005.

B. Curtailment Tariff

A curtailment tariff is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Since the Company does not have a curtailment tariff, this application provides an opportune time to prepare and file such a tariff. Staff recommends that the Company file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the final Decision and Order in this matter. The tariff shall be filed with Docket Control as a compliance item under this same docket number for Staff's review and certification.

Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's web site at www.cc.state.az.us. Staff recognizes that the Company may need to make minor modifications according to their specific management, operational, and design requirements as necessary and appropriate.

Summary

I. Conclusions

1. Staff concludes that the proposed water system will have adequate production and storage capacity to serve the proposed area within a conventional five year planning period.
2. Cave Creek is in compliance with ADWR's reporting and conservation rules (GPCD requirements).
3. The Company's plant additions and estimated costs to serve the requested area appear reasonable and appropriate.
4. A check with the Utilities Division Compliance Unit showed no outstanding compliance issues.

II. Recommendations

1. Staff recommends that Cave Creek Water Company file with the Commission's Docket Control as a compliance item under the same docket number a copy of the ADEQ "Approval to Construct" for the Company's final arsenic treatment plan by December 31, 2005.

2. Staff recommends that Cave Creek Water Co. file with the Commission's Docket Control as a compliance item under the same docket number Commission a copy of the developers' Certificate of Adequate Water Supply, stating that there is adequate water supply, where applicable or when required by statute, within one year of the effective date of the final decision and order issued pursuant to this application.
3. Staff further recommends that this decision become effective on the first day of the month following the Company's filing with the Commission's Docket Control as a compliance item under the same docket number MCDES documents that demonstrate full compliance.
4. Staff recommends that the Company file a curtailment tariff as soon as possible, but no later than forty-five (45) days after the effective date of the final Decision and Order in this matter. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's web site at www.cc.state.az.us. Staff recognizes that the Company may need to make minor modifications according to their specific management, operational, and design requirements as necessary and appropriate.